



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,556	01/25/2002	Michael W. Wallace	3301-007	4673

7590 03/08/2005

MARGER JOHNSON & McCOLLUM, P.C.  
1030 S.W. Morrison Street  
Portland, OR 97205

EXAMINER

ABEL JALIL, NEVEEN

ART UNIT PAPER NUMBER

2165

DATE MAILED: 03/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	<b>Application No.</b> 10/057,556	<b>Applicant(s)</b> WALLACE, MICHAEL W.	
	<b>Examiner</b> Neveen Abel-Jalil	<b>Art Unit</b> 2165	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The reply was filed after the date of filing a Notice of Appeal, but prior to the date of filing an appeal brief. The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_  
 13. ☐ Other: \_\_\_\_\_

  
**SAM RIMELL**  
**PRIMARY EXAMINER**

Continuation of 11. does NOT place the application in condition for allowance because: The applicant's arguments presented in the "Response to Final Office Action" filed on 1-February-2005, have been fully considered but they are not deemed to be persuasive.

In response to applicant's argument that "May et al. does not teach the step of allowing selection under control of the processor by a user of two or more top-level categories from the list of categories stored in the memory" is respectfully acknowledged but is not deemed to be persuasive.

The Examiner has found the prior art element performs the identical function specified in the claim in substantially the same way, and produces substantially the same results as the corresponding element disclosed in the claim. Broadly interpreted the claim language does not state the two categories are selected simultaneously instead the May et al. reference clearly states that the user is capable of selecting more than one category that is presented to him/her by the processor in figures 3 & 4. May et al.'s system is hierarchical, selections can be made top-bottom and across sub-categories therefore making it "two categories" are selected. May et al. shows a list of more than one category that the user can select from and display regardless whether they contain sub-categories. Nowhere in the claimed language does it state that the "selecting two top-level categories" must accrue in a single compile.

In response to applicant's argument that "May et al. does not teach the step of selecting for presentation to the user ... a sub-list of only those media content items associated with all of the two or more top-level categories selected by the user" is respectfully acknowledged but is not deemed to be persuasive.

The Examiner broadly interpreted the claim language to read on May et al. column 19, lines 7-22, wherein May et al. specifically discloses a matrix for category selections. More than one cell "category" can be selected by the views as taught in May et al. abstract and column 22, lines 33-54. May et al. teaches a new cell can be selected while the default cell is also selected and displayed on the user interface. May et al. in column 19, lines 38-45, teaches the viewer may also wish to undo individual search requests from a set of concatenated search requests indicating the displayed selections are concatenated from more than one category.

The argument has been previously addressed by the Examiner in the Final Office Action pages 8-9 mailed on December 1, 2004.